

Atty. Dkt. No. 00CR156/KE

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 10 and 14 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 3-12, 14, and 16-21 are now pending in this application.

In Section 2 of the Office Action, the Examiner objected to informalities in claims 10 and 14. Claims 10 and 14 have been amended based on the Examiner's suggestions. Entry of these amendments and reconsideration and withdrawal of the objections to claims 10 and 14 is respectfully requested.

In Section 4 of the Office Action, the Examiner rejection claims 1, 10, and 14 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2003/0081592 to Krishnarajah et al. (hereinafter Krishnarajah et al.). The Examiner stated that "'Negotiating quality of service parameters for at least two streams wherein each stream is associated with a detected level of interference' is anticipated by ... Table 2 of page 5, which shows a defined residual bit error ratio (level of interference) that exists for each class of bearer traffic." Applicants respectfully traverse the rejection.

Claim 1 recites file streams "wherein each stream is associated with a detected level of interference." Claim 14 and Claim 10 recite similar language.

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Krishnarajah et al., does not teach or suggest placing the important bits in one of the two streams having the higher quality of service level where in the quality of service level is determined based at least in part on a **detected** level of interference. Although Krishnarajah et al. may teach a **defined** residual bit error ratio, this value is not taught or suggested as being a detected value. Accordingly, this element is not taught or suggested by Krishnarajah et al. Reconsideration and allowance of claims 1, 10, and 14 is respectfully requested.

Claims 3-8 depend from claim 1 and include all of the limitations thereof. Claims 11-12 depend from claim 10 and include all of the limitations thereof. Claims 17-21 depend from claim 14 and include all of the limitations thereof. These claims are allowable for at least the same reasons as the independent claims from which they depend. Reconsideration and withdrawal of the rejection of claims 2-8, 11-12, and 17-21 is respectfully requested.

In Section 7 of the Office Action, the Examiner rejected claims 9 and 16 under 35 U.S.C. §103(a) as being unpatentable over Krishnarajah, et al. in view of Applicants Admitted Prior Art in the Background Section of the Specification. Claim 9 recites "a received signal quality is improved as much as 2dB to 5dB on noisy transmission channels without causing additional delays in the transmission." The Examiner asserted that Krishnarajah, et al in combination with Applicants Admitted Prior Art teaches this limitation because Applicants admit "how soft decisions in the lower layers of the communication stack are known to provide 2dB to 5dB improvement in signal quality." Applicants respectfully assert that such a combination is improper.

The combination is improper because there is no motivation to combine the references and further, Applicants Admitted Prior Art, in the same paragraph cited by the Examiner, teaches away from such a combination. The sentence immediately prior to the sentence cited by the Examiner states that "the application layer cannot take advantage of the soft decision capability available only to the lower layers of the communication stack." (Application, page 6, para. 24) Accordingly, the combination Krishnarajah, et al. with Applicants Admitted Prior Art is improper because there is no motivation to combine the references and Applicants Admitted

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Prior Art further teaches away from such a combination. Reconsideration and withdrawal of the rejection of claim 9 is respectfully requested.

Claim 16 recites that "the identified bits that are to be discarded include sounds beyond the range of human hearing or sounds overwhelmed by other sounds for audio transmissions, white lines or extremely fine detail within an image, white lines between lines of text on a page, and identically shaded pixels within an image." The examiner has argued that the Applicants description related to the above in the Background of the Invention, specifically paragraphs 20 and 21, is an admission of prior art. However, applicants make no statements that the above is known prior art. The above statements are not admitted prior art. Accordingly, every element of claim 16 is not taught or suggested by Krishnarajah, et al. Reconsideration and withdrawal of the rejection of claim 16 is respectfully requested.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 18-1722. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 18-1722.

Respectfully submitted,

Date

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By

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